

## REMARKS

Reconsideration and the timely allowance of the pending claims, in view of the foregoing amendment and following remarks, are respectfully requested.

By this Amendment, claims 1 and 10 have been amended to provide a clearer presentation of the claimed subject matter. Applicant submits that no new matter has been introduced. As such, claims 1-5, and 10-14 are presented for examination of which claims 1 and 10 are independent.

### REJECTIONS UNDER 35 U.S.C. §102(b)

In the Office Action, the Examiner rejected claims 1 and 10, under 35 U.S.C. §102(b), as allegedly being anticipated by Igaki (U.S. Patent No. 5,109,428). Applicant respectfully traverses this rejection, under 35 U.S.C. §102(b), because Igaki fails to disclose each and every feature of Applicant's pending claims.

As indicated above, independent claim 1 positively recites, *inter alia*,

a data acquisition unit configured to acquire a plurality of certifying data from a recognized individual, the plurality of certifying data comprising attribute information associated with the recognized individual that is ***repeatedly acquired based on changes in the direction of the face of the recognized individual***

Igaki discloses *fingerprint* identification for extracting minutia data from *fingerprint* image data. Igaki does not relate to acquiring a plurality of certifying data repeatedly based on changes in the *direction of the face* of the recognized individual. As such, Igaki fails to disclose a data acquisition unit configured to acquire a plurality of certifying data from a recognized individual, the plurality of certifying data comprising attribute information associated with the recognized individual that is ***repeatedly acquired based on changes in the direction of the face of the recognized individual***, as required by Applicant's claim 1.

Thus, for at least this reason, Applicant submits that Igaki fails to disclose the claimed combination of elements recited by amended claim 1. As such, claim 1 is clearly patentable. Accordingly, the immediate withdrawal of the rejection of claim 1 is respectfully requested.

Applicant further submits that because independent claim 10 recites similar patentable features as claim 1, claim 10 is also patentable for the same reasons given relative to claim 1. Accordingly, the immediate withdrawal of the rejection of claim 10 is respectfully requested.

**REJECTIONS UNDER 35 U.S.C. §103(a)**

In the Office Action, the Examiner rejected claims 2-5 and 11-14, under 35 U.S.C. §103(a), as allegedly being unpatentable over Igaki in view of Fukui (U.S. Patent No. 5,982,912). Applicant respectfully traverses the rejections, under 35 U.S.C. §103(a), because the Examiner has failed to establish a *prima facie* case of obviousness for the reasons presented below.

Fukui fails to cure the deficiencies of Igaki identified above. For example, Fukui fails to teach or suggest that a plurality of certifying data (for example, face images) is acquired by the data acquisition unit, much less, that the plurality of certifying data comprising attribute information associated with the recognized individual that is ***repeatedly acquired based on changes in the direction of the face of the recognized individual***.

Moreover, because claims 2-5 depend from claim 1, either directly or indirectly, claims 2-5 are patentable at least by virtue of dependency as well as for their additional recitations. Also, because claims 11-14 depend from claim 10, claims 11-14 are patentable at least by virtue of dependency as well as for their additional recitations.

For example, Fukui fails to teach or suggest the features of claim 2 and 11. As mentioned above, Fukui fails to teach or suggest that a plurality of certifying data is acquired from a recognized individual. In fact, Fukui discloses that **only one face image** of a person is input, as opposed to certifying data that is repeatedly acquired based on changes in the direction of the face of the recognized individual. Furthermore, Fukui discloses that feature point set selection section 14 detects face structure parameters from a set of candidates of feature points in the face area and calculates the value of the face structure parameters. Thus, Fukui merely discloses calculating the value of the face structure parameters associated with **only one face image** of the person. Since Fukui fails to teach or

suggest that a plurality of certifying data is acquired from a recognized individual, and that feature points from the plurality of certifying data are detected, Fukui cannot teach or suggest that one of the up\_down and the left\_right *angle change* in the feature points detected from the *plurality of certifying data* is calculated.

Moreover, with respect to claims 5 and 14, Applicant traverses the Examiner's invocation of Official Notice. More particularly, the Examiner's invocation of Official Notice is improper for at least the reason that the Examiner has failed to properly establish that the features of claims 5 and 14 are "well known." The Examiner has failed to identify any disclosure, teaching, or suggestion in the references relied upon by the Examiner, or any other reference, that would indicate that these features are well known.

Accordingly, for at least the foregoing reasons, and pursuant to the requirements of 37 C.F.R. § 1.104(c), the Examiner must provide documentary evidence in the next Office Action if the rejection of dependent claims 5 and 14 in view of the Examiner's "Official Notice" is to be maintained. *See In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (requiring an Examiner to "point to some concrete evidence in the record" to support a finding based on common knowledge). Moreover, if the Examiner is relying upon personal knowledge as the basis for the allegation of "Official Notice," the Examiner must provide an affidavit to support the alleged personal knowledge in the next Office Action. 37 C.F.R. § 1.104(d)(2). In the absence of proper documentary support, the Examiner has improperly relied upon Official Notice in rejecting claims 5 and 14, and the rejection thereof is therefore improper.

For at least these reasons, Applicant submits that none of the asserted references, whether taken alone or in reasonable combination, teach or suggest the claimed combination of elements recited by Applicant's pending claims. Accordingly, the immediate withdrawal of the prior art rejections of claims 2-5 and 11-14 is respectfully requested.

**CONCLUSION**

All matters having been addressed and in view of the foregoing, Applicant respectfully requests the entry of this Amendment, the Examiner's reconsideration of this application, and the immediate allowance of all pending claims.

Applicant's Counsel remains ready to assist the Examiner in any way to facilitate and expedite the prosecution of this matter. If any point remains in issue which the Examiner feels may be best resolved through a personal or telephone interview, please contact the Undersigned at the telephone number listed below.

Please charge any fees associated with the submission of this paper to Deposit Account Number **03-3975**. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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